

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**SAMUEL G. BREITLING AND
JO ANN BREITLING,**

Plaintiffs,

vs.

LNV CORPORATION, ET AL.,

Defendants.

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NO. 3:15-CV-00703

STATE OF TEXAS
COUNTY OF DALLAS
CITY OF SACHSE

**AFFIDAVIT OF JOANN BREITLING
IN SUPPORT OF PLAINTIFFS NOTICE OF INTENT**

I, JoAnn Breitling, am beyond 18 years of age. I have resided in Dallas County all of my life. I have never been convicted of a crime. I am fully competent to make this affidavit in testimony of my personal knowledge and experience. I swear under the penalty of perjury and under the laws of Texas that my testimony herein is true and accurate.

Our son, Samuel Matthew Breitling, who we call "Matt" or "Matty" was born in 1983 with Down syndrome and congenital heart disease. He had two open heart surgeries in his first year of life and we almost lost him both times. By the grace of God he survived and he thrived and he grew up in a loving home with six sisters.

On March 7, 2013 our law suit against MGC Mortgage Inc. (owned by D. Andrew "Andy" Beal, who also owns LNV Corporation, a defendant in the present case) went to mediation and because our attorney had a meltdown in the middle of our session because she said she could not defend against yet another summary judgment by Scott Hayes, attorney for MGC. (she had won the one in August 2012, hands down, and she informed him we were going to trial), but the guy would just not stop filing summary judgments to delay/prevent the trial from going forward. He was the reason for her meltdown; he had violated the scheduling order to set a hearing to move the trial date back so that his fifth motion for summary judgment could be heard before the trial.

The case was abated for 90 days with my consent. During that 90 day period I gave power of attorney to a financial officer in Dallas, Glenn Joyner, who called us two weeks after the mediation and he had contacted **MGC and they told him (TWO WEEKS AFTER THE MEDIATION) that MGC had no authority over our loan.**

Mr. Joyner had been in the mortgage industry for a very long time and he said he knew something very illegal was going on. I called Ellington Mortgage Partners and notary Jeanne Stafford during this period, doing my own "mini discovery" and I learned how deeply the fraud ran.

In April 2013 our son Matthew became ill. I took him to Dr. Trung Dao in Richardson, and he was misdiagnosed as having acid reflux, and he was put on medication that made him worse. In May, 2013, the Monday morning after Mothers' Day I took our son to Methodist Richardson ER at 5 AM in the morning. He was very ill. There, they diagnosed him as having an abscess in his lung and they sent him home on two medications.

He became sicker by the day. I went to Dr. Marcum Quinn, a pulmonary specialist four days later, and he changed some of the medications and assured me our son would be fine, but he would need to stay on 1000 mg of penicillin a day for three months. I was taking him back for x-rays every 2-3 weeks. During this time (the abatement period) I was trying to locate a new attorney; help my youngest daughter plan an out of town wedding because of Andy Beal's threats to our property she was afraid to plan anything in Dallas; and I was trying to managed my son's health problems.

Also in April 2013 my husband had a double knee surgery and I was caring for him as well during his period of recuperation.

Matthew was taking the medications prescribed but he was not improving. In June 2013 Scott Hayes called me and asked me to set a hearing to re-open our case. I was honest with him and told him our son was very sick and I needed it set out to the end of July 2013. I respected that and set the hearing for July 30, 2013

We had gone to Kingwood Texas in late July 22, 2013 for events leading up to our daughter's wedding. At a family dinner in a restaurant Matthew projectile vomited and I had to rush him out of the room. He was unable to eat anything at all without vomiting from that time on so the next morning I took him to Kingwood Medical Center ER where we spent seven hours while they did numerous tests yet we came home with no diagnosis. Matthew's health continued to deteriorate.

While my son had life threatening health problems I was on the phone speaking with attorney after attorney and setting appointments whenever possible. The guilt I felt because I was spending so much time looking for an attorney when my son was so ill became unbearable. I realized I could not fight in court and fight for my son's life at the same time. With much reluctance I made the decision to non-suit our case. I filed the notice on or around July 29, 2013, and as soon as the case was opened by agreed order, Judge Tonya Parker closed it, without prejudice.

One attorney I had spoken with and emailed back and forth with concerning my case, Rachel Khirallah, in Dallas finally told me to come in with \$3,000 cash and she would take my case. So on August 1, 2013 two days after non-suiting I met with her. I put the \$3,000 cash on her desk and she pulled up our case number DC-1107087. When she kept scrolling down and saw how many times Scott Hayes had filed for summary judgment (he NEVER could win) she pushed the \$3,000 back to me and said she could not take the case and file a new lawsuit. She said my claims were good and they were valid, but that the MGC's attorney would tie up all of her time with his frivolous motions. She said that with the hours she would have to put into a case with that many motions, the cost would be over \$75,000, and she could not afford to take my case because she was a solo attorney. Many other attorneys I've spoken with have told me the same thing. Some specifically said that Andy Beal would spend millions to defeat us. I felt devastated. It was during this 90-day abatement period that I had come into contact with other MGC/LNV/Beal victims so I felt very angry that someone could get away with destroying our lives and the lives of so many others because he was a billionaire and we were average citizens living on a limited retirement income. Justice should not be about who has the most money, but about the merits of the case.

That same week in August I took Matty back to Dr. Trung Dao who gave us more medications, but our Matty continued to get worse. We returned to Kingwood for another wedding function and Matty started coughing non-stop. On one of our previous visits to the ER we were told Matty had an abscess on his lung so I took Matty to a lung specialist. He sent us immediately to the hospital for a CAT scan of our Matty's lungs. He called me the same day and said Matty either had Scleroderma or Achalasia. Neither diagnosis was a good one. We went back to the hospital the next day for a swallow test. We were then referred to Dr. Ranga Nathan who scheduled our son to have an immediate procedure to see what was wrong with Matty's throat.

During this procedure Matty aspirated and all of his vital signs fell dangerously. An ambulance was called and we were immediately taken back to Kingwood Medical Center and Matty was admitted into ICU with a blood pressure of 60/37.

I stayed with him night and day for ten days in ICU. Six doctors came daily to see Matty. They determined he had aspiration pneumonia. Dr. Nathan called in another specialist, Dr. George Nunez, and together they were able to diagnose Matty with Achalasia.

They performed Matty's first surgery to stabilize him. He will need more surgeries in the future. He cannot be left alone; he is on a very restricted diet; and his lungs and his immune system are severely compromised because of this rare disease. He takes medications 3-4 times daily and we follow-up with his specialists several times a year. I have attached a letter written by Matty's specialist as Exhibit A attached to this Affidavit, and I've included several photographs of our Matty during this devastating period in our lives in my Exhibit B attached to this Affidavit.

My non-suit in July 2013 was not because I was playing games with the court as Locke & Lord claims. I did it to save my son's life. Matty is mentally challenged, but he knows and he senses things. He has helped me carry my boxes to visit with attorneys. This year on his 32nd birthday we had a small cake and he blew out his candles. My husband told him not to tell his wish, and with his childlike innocence he told us "I wished for my mom to win in court." I was brought to tears that he gave us his birthday wish for me to win in court.

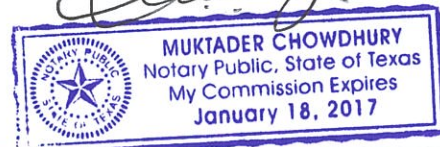
Respectfully submitted

Jo Ann Breitling
JoAnn Breitling

State of Texas

County of Collin

SWORN to and SUBSCRIBED before me, the undersigned authority, on the 21 day of June,
2015, by _____



Notary Public, State of Texas

Exhibit A

In Support of the Affidavit of JoAnn Breitling

In Support of Plaintiff's Notice of Intent

Letter from Dr. Ranga S. Nathan, M.D., F.A.C.G.

Specific to the medical condition of Samuel Matthew "Matty" Breitling and irreparable harm that would be caused to him should he be displaced by a wrongful eviction of the Breitlings from their home of 33 years



**DIGESTIVE
DISEASE
CONSULTANTS, P.A.**

Ranga S. Nathan, M.D., F.A.C.G.

*Practice Limited to Gastroenterology
and Liver Diseases*

**Clinical Assistant Professor
Baylor College of Medicine**

6-17-15

To whom it may concern,

RE: Samuel Breitling

Mr. Breitling is a 32 year old male with down syndrome and achalasia. He is suffering from severe achalasia with difficulty in swallowing and failure to thrive.

The patient developed aspiration pneumonia in April 3, 2013. He was hospitalized and quite ill at the time. However he survived with expert medical care.

Currently his achalasia is managed with diet and medication. Both his parents are his care givers and if it were not for the both of them, Mr. Breitling survival would be in question. Any displacement of Mr. Breitling may leave a devastating effect on his health.

Sincerely,

Ranga S. Nathan, M.D.

RSN:tg

Exhibit B

In Support of the Affidavit of JoAnn Breitling

In Support of Plaintiff's Notice of Intent

Photographs of Samuel Matthew "Matty" Breitling while in intensive care at
Kingwood Medical Center ICU

Samuel Matthew “Matty” Breitling and Plaintiff JoAnn Breitling at the Intensive Care Unit at Kingwood Medical Center in September 2013.



Contrary to the allegations of LNV's (Beal's) Locke Lord attorneys the Breitlings did not non-suit to play games with the court; they had to due to a medical emergency that threatened the life of their precious son, Matty.

None of the Breitlings legitimate claims against MGC, LNV and other Beal agents have ever been adjudicated by any court because of the malicious and intentionally abusive actions taken by the "Beal entities" to thwart the Breitlings' constitutional rights to due process and equal protection of the law under the fifth and fourteenth amendments to the Unites States Constitution.

Matthew Breitling in the t the Intensive Care Unit at Kingwood Medical Center in September 2013 with Sponge Bob and doing his favorite pastime drawing.



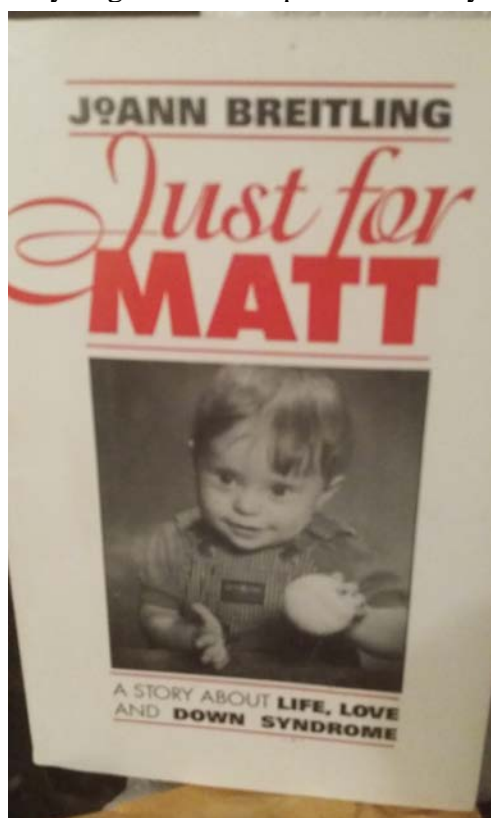
Matty drew this picture of his house



Matty's favorite hockey team from Los Angles.



Above is a photograph from the Breitling family gathering in celebration of Samuel Breitling's 70th birthday on June 6, 2015. Samuel served Dallas as a police officer for 33 years and served in the United States military for 4 years before this as a Marine. Since MGC took over servicing of the Breitling's mortgage in 2008 the spirit of every Breitling family event has been dampened with the knowledge that they might lose their precious family home of 33 years to fraud.



When Matthew was born the Breitlings reached out to the Down Syndrome Guild of Dallas. JoAnn's best friend was a school teacher and she put her in touch with Ruth Ann Stallings. When Matthew was three weeks old, Matthew and JoAnn were invited to the Stallings home in Lake Highlands. (Gene Stallings is a legendary football coach in Texas for the Texas A & M University and a coach for the Dallas Cowboys).

They had the honor of meeting the Stallings' son John Mark. Ruth Ann became JoAnn's mentor, and a few months later she became a writer for the Guild's newsletter and Matty was the Guild's poster child when he was five years old.

JoAnn self published a book in 1992 about her experiences parenting a child with Down syndrome. The book is sold on Amazon and a copy of the book's first edition is to the left. She began to work with now Bishop Mark Seitz of the El Paso diocese and she counseled women who were considering aborting babies with Down syndrome over the next five years. Matty and his sisters also appeared on "Good Morning Texas" in 1997.